

Special Civil Application No 3028 of 81

Date of decision: 01/02/96

For Approval and Signature:  
Hon'ble MR.JUSTICE A.R.DAVE

1. Whether Reporters of Local Papers  
may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy  
of the judgement?
4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RABARI MAFABHAI JAKSIBHAI  
vs  
PATEL KACHRABHAI HEMABHAI

Appearance:

MR Vijay H PATEL for Petitioner  
MR Bhavir PATEL for Mr. A.J Patel, learned advocates  
for Respondent No. 1  
MR Asish Desai, AGP for Respondent No. 3

Coram : MR.JUSTICE A.R.DAVE  
1-02-1996

ORAL JUDGEMENT

The petitioner-debtor had approached the Debt Settlement Officer, Mehsana under the provisions of Gujarat Rural Debtors' Relief Act, 1976 (hereinafter referred to as "The Act") so as to avail benefit under the provisions of Section 3 of the Act. By an Order dated 8th January, 1980, the Debt Settlement Officer, Mehsana came to conclusion that the petitioner was a small farmer and he was given some relief under the provisions of the said Act.

2. Being aggrieved by the above referred Order dated 8th January, 1980, Respondent No. 1 - Creditor had approached the District Registrar (Rural Debts) Appeals, Ahmedabad by way of an appeal under provisions of the Act. After hearing the concerned parties and upon perusal of the record, the appellate authority came to the conclusion that the petitioner was not a small farmer, and therefore, the order passed by the Debt Settlement Officer, Mehsana dated 8th January, 1980 was quashed and set-aside. Thus, by an Order dated 24th February, 1981, in Appeal No. 320, respondent No. 3 had quashed and set-aside the order dated 8th January, 1980 passed by the Debt Settlement Officer, Mehsana.

3. Being aggrieved by the above referred order dated 24th February, 1981 passed by Respondent No. 3, the petitioner has approached this Court under the provisions of Article 227 of the Constitution of India.

4. After hearing the concerned advocates and upon perusal of the record, it appears that the petitioner would not fall within the definition of "small farmer". It appears from the record that the petitioner was not earning his livelihood principally by cultivating agricultural land possessed by him. It appears that the petitioner was not only doing business of selling milk but was also dealing in cattle. It also appears that the petitioner had borrowed money for purchase of cattle. Apart from the above referred facts, it appears from the record that the petitioner used to cultivate his land with the help of a bore-well.

5. In view of the above referred facts, it cannot be said that the petitioner was a "small farmer" within the meaning of provisions of Section 2 (P) of the Act as he was not earning his livelihood principally by cultivating his agricultural land. The impugned order does not appear to be unjust or illegal and the findings arrived at by the appellate authority cannot be said to be illegal in any way.

6. I do not find any substance in any of the points raised by the petitioner in the memo of the petition which were vehemently urged by Shri V.H Patel, and therefore, the petition is dismissed with no order as to costs. Ad-interim relief granted earlier by this Court stands vacated. Rule is

discharged.

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Prakash\*